THE LATTER-DAY SAINTS'

MILLENNIAL STAR.

"Holiness unto the Lord."

No. 14, Vol. XXXIV. Tuesday, April 2, 1872. Price One Penny.

THE CONSTITUTIONAL CONVENTION.

[CONTINUED FROM PAGE 206.]

What wonder that the counsel for the defendant felt compelled to notice this unprecedented action of McKean, by filing the next day the following protest—

Territory of Utah, } s.s.
Third District Court, }

The people of the United States in the Territory of Utah vs. Brigham Young, } September Term, 1871, Salt Lake City.

To the Hon. Jas. B. McKean, Judge of the above entitled Court:

We, the undersigned, of counsel for the defendant in the above entitled cause, respectfully except to the following language of your honor in your opinion upon the motion to quash the indictment herein:

"The Supreme Court of California has well said: 'Courts are bound to take notice of the political and social condition of the country which they judicially rule.' It is therefore proper to say that while the case at the bar is called '*The People versus Brigham Young*,' its other and real title is *Federal Authority versus Polygamic Theocracy*.' The government of the United States, founded upon a written Constitution, finds within its jurisdiction another government—claiming to come from God—*imperium in imperio*—whose policy and practice, in grave particulars, are at variance with its own. The one government arrests the other in the person of its chief, and arraigns it at the bar. A system is on trial in the person of Brigham Young. Let all concerned keep this fact steadily in view, and let that government rule without a rival which shall prove to be in the right. If the learned counsel for the defendant will adduce authorities or principles from the whole range of jurisprudence, or mental, moral or social sciences, proving that the polygamic practices charged in the indictment are not crimes, this court will at once quash this indictment, and charge the grand jury to find no more of the kind."

The indictment in this case charges the defendant with "lascivious cohabitation," and not with polygamy or treason. The statement of your honor that a system of polygamic theocracy is on trial in this case in the person of Brigham Young, coupled with your invitation to us to prove by authorities that the acts charged in the indictment are not crimes, is most pre-

judicial to a fair trial of the defendant, in that it assumes that the defendant has been guilty of the acts charged in the indictment, and that the law and not the alleged fact will be on trial.

No motion has been made to quash the indictment in this case on the ground that the acts charged therein are not crimes, nor has such a proposition been advanced on argument by any of defendant's counsel herein.

We submit that no "political and social condition of the country" can relieve the prosecution of the task of proving one or more of the acts alleged in the indictment, and that unless and until such proof is made, the guilt of the defendant ought not to be assumed or even conjectured by the judge before whom he is to be tried.

If any presumption is to be indulged in, it is that the defendant is innocent of the charges preferred against him, and that he will accordingly plead "not guilty" to the indictment, and that presumption remains until the defendant elects to plead either "guilty" or a special plea of justification, which latter has not been suggested by either defendant or his counsel. In so pleading "not guilty," the defendant will not say that the acts charged in the indictment are not crimes, but that he is not guilty of the acts charged in the indictment.

Then there will be a question of fact for a jury, and we submit that in the determination of that question the language of your Honor herein referred to cannot but tend to the prejudice of the defendant, and we therefore except to the same.

FITCH & MANN,
HEMPSTEAD & KIRKPATRICK,
SNOW & HOGE,
HOSEA STOUT,
A. MINER,
LE GRAND YOUNG.

Let not the filing of this protest be criticised as an unusual proceeding. If it be unusual, so was the occasion which elicited it. What right had Judge McKean to thus expose his bias to the world, and bring the administration of justice into contempt? Suppose that in the case of Sickles, indicted for killing Kay, the seducer of his wife, a motion had been made to quash the indictment for some technical defect, and in refusing the motion to quash the judge presiding had said—"Let all concerned keep steadily in mind, that while the case at the bar is called, the People of the District of Columbia against Daniel E. Sickles, its other and real title is, The Peace of Society against Red-handed Murder. The government of Washington City finds in its midst a social code, claiming to come from God, a code which asserts the right of a husband to vindicate his honor by bloodshed. The code arrays itself against the laws. A system is on trial in the person of Daniel E. Sickles. The question is not, 'Is the defendant guilty or innocent of the crime charged?' But it is, 'Shall men be permitted to walk down Pennsylvania Avenue on Sunday evenings, and murder other men who may have disturbed their domestic relations?'"

A judge who should pursue such a course elsewhere, would be apt to lose his official head, or the opportunity of trying the defendant thus passionately assailed from the bench. I do not believe that there is a fair-minded judge in the country, outside of Utah, who, if he had been betrayed in such a case into delivering such language, would afterwards consent to sit as judge upon the trial of a defendant thus prejudiced. I do not believe that there is another community in the country that would not with unanimous voice, demand that a judge who had so exhibited his bias should retire during the trial of the defendant in such a case.

And yet I venture to predict that Judge James B. McKean will refuse a change of venire, refuse a change of judges, and insist upon occupying the bench upon the trial of Brigham Young, and I predict further that his course in that respect will be sustained by hundreds in Utah, who are only anxious that Brigham Young, whether innocent or guilty, shall be convicted of something or other, or at least punished for something or other. It will be sustained also by that portion of the newspaper press of Utah which has constantly, since the inauguration of these prosecutions, presented the disgusting spectacle of calling for the conviction and punishment of men accused of crimes; prejudg-

ing their cases, denouncing all who defended them, and accusing of corruption those who declined to lend the high duties of officers of the government to the dirty work of malicious injustice. It will be sustained by the editors who have bitterly abused the United States Marshal for according to persons in confinment those comforts which are allowed to all persons before trial—who are willing to undergo the expense. It will be sustained by those newspapers whose conductors have found words of encouragement and applause for every insult or indignity or oppression that has been levelled against the Mormons.

But I am not yet through with a recital of the acts of the Federal judges in Utah. The Probate Courts, which for twenty years have exercised jurisdiction in a certain class of cases, have been swept into nothingness by the Supreme Court of the Territory, throwing property rights into litigation, and making invalid and worthless hundreds of divorces upon the faith of which other marriage relations had been contracted. A liquor dealer whose stock was destroyed for selling without a licence, in violation of a city ordinance, sued for damages the City Marshal and his deputies who executed the warrant, and the Justice who issued it, and obtained from a selected jury a verdict of $57,000—$19,000 for the value of the liquor destroyed and $38,000 as punishment for those who acted at least under color of authority. The son of one of the Justices of the Territorial Supreme Courts—a young man whose zeal outran his discretion on election day—was locked up for a few hours for such disorderly conduct, and he has brought an action against the city officers who detained him, to recover $25,000 damages. Several persons, committed by a local magistrate to answer charges of felony, have sued out writs of *habeas corpus* before a Federal Judge and been discharged from custody, on the ground that the Mormon Justice had no jurisdiction—the universal rule of law, that the acts of a *de facto* officer cannot thus be collaterally attacked being coolly ignored.

The baser elements of society, gaining courage and support from these decisions, now commit depredations on the public peace and on private property with impunity, until within a year Salt Lake, from one of the best, has almost become one of the worst governed cities on the continent.

I turn again from the proceedings of the Court to the proceedings of the Grand Jury it impanneled.

In the guard house at Camp Douglas, associated with felons, and within the walls of the city jail, are four men of families, four kind, honest, worthy, harmless men, who are held in close confinement upon the uncorrobated evidence of a self-confessed perjurer—innocent men over whom the shadow of the scaffold impends, while the grand jury which indicted them refused to consider, refused to listen even to, evidence of the perjury of the man upon whose uncorroborative testimony the indictment was found. Before Judge McKean, as magistrate examining persons charged with the murder of J. King Robinson, one Charles W. Baker swore that he recognized Blythe and Toms as the two men with muffled faces who ran from the scene of the homicide in question upon the night of October 22, 1866. After giving this evidence Baker, struck with remorse, or failing to receive his reward, or for both or other reasons, made the following affidavit:—

Territory of Utah, } s.s.
Salt Lake County, }

Be it remembered that, on the 3rd day of January, 1872.

Personally appeared, Charles W. Baker, who was by me sworn in due form of law, and who, on his oath, did say that he is the identical Charles W. Baker who was a witness in an examination before the honorable James B. McKean, Chief Judge of the Supreme Court of the Territory of Utah, commencing on the 14th day of December and terminating on the 23rd day of December, 1871, at Salt Lake City; wherein John L. Blythe, James Toms, Alexander Burt and Brigham Y. Hampton were charged with the murder of Dr. J. King Robinson, at Salt Lake City, in the County of Salt Lake and Territory of Utah, on the 22nd day of October, 1866.

He further says that the testimony which he then, on said examination, gave was wholly untrue and false. He further says he was hired to give said

testimony by S. Gilson. That it was agreed between him and the said S. Gilson and others.

That he was to be paid the sum of five hundred dollars, no matter what might be the event of the proceedings, and one thousand dollars for each person that was or might be convicted.

That during the time he was engaged in said testimony and detained, his board was paid by said Gilson and others, at the Revere House, in said city.

He further says he had a plat of the grounds and of the street in the City of Salt Lake, near to the place where the murder was committed, furnished him by S. Gilson.

Which plat, before he gave evidence, was by him carefully studied, so that he might understand it. He further says that since he so gave his testimony he has carefully reflected on the enormity of the crime he has committed and is aiding in carrying out, and he has concluded to make amends, so far as it is now in his power.

He therefore voluntary now makes this statement upon his oath.

He further says that, on or about the 16th day of December, 1871, he had a conversation with Thomas Butterwood, who then informed this affiant that he was hired to give his testimony, in the above named case, and that his testimony was not true.

(Signed) C. W. BAKER.

Subscribed and sworn before me this third day of January, A. D. 1872.

JOHN T. CAINE, Notary Public.

After making this affidavit, somebody persuaded Baker to go before the grand jury, and repeat the false statements he had made before the examining magistrate. While Baker was giving his testimony, the grand jury had in their possession the affidavit I have just read, and yet, will it be believed, they refused to consider this affidavit; they refused, although requested, to send for the three witnesses by whom the fact of Baker's voluntary signing and swearing to it could have been proved; they refused to even question Baker about it, or to ask him to explain it, while upon his testimony alone they indicted Blythe and Toms! There was no evidence so base, so worthless but was sufficent to indict a Mormon upon, there was no evidence sufficiently damning to indict a man who would swear against Mormons.

From the closed doors of this grand inquest, the counsel for Blythe and Toms turned to Judge McKean. Upon a proper legal affidavit they asked him to have Baker brought before him for examination upon a charge of perjury. He refused to issue a warrant, or make any examination, on the ground that he was officially informed that the grand jury had the subject under consideration! Baker was then arrested and taken before a Mormon justice. The lawyer who acted as deputy district attorney on the examination of Blytle and Toms, appeared here as Baker's counsel, and waived an examination, thereby admitting that there was probable cause to believe Baker guilty of perjury; and Baker was committed to jail, where he now is, in default of $3,000 bail. The usual practice of *habeas corpus* to procure his release has not been resorted to, perhaps because unpleasant facts might thereby be made public, and his confinement will not be made lengthy, for he will probably be discharged as soon as the grand jury can again get together and officially ignore the charge.

I will not pursue this dreary record further. A volume of details of acts of injustice and tyranny might be compiled from the official records, but one more instance will suffice.

Brigham Young, an American citizen of character, of wealth, of enterprise, an old man who justly possesses the love and confidence of his people, and the respect of those who knew and comprehend him, is to-day a prisoner in his own house in charge of an officer. Judge McKean refuses to admit him to bail, although the prisoner is ready to give any sum demanded, and the Attorney-General of the United States has requested that bail be taken. There is nothing but the lenity of the United States Marshal and the caprice of his persecutors between the prisoner and the cell of a common guard house. If he takes an airing in his carriage, accompanied by the officer who has him in custody, a howl goes up from those newspaper organs of the prosecution, who lustly call for a tin plate, and irons, and prison fare for him—and all this

upon the uncorroborated oath of one of the most remarkable scoundrels that any age has produced, a man known to infamy as William Hickman, a human butcher, by the side of whom all malefactors of history are angels, a creature, who, according to his own published statement, is a camp follower without enthusiasm, a bravo without passion, a murderer without motive, an assassin without hatred.

Who shall say that no man will ever be convicted by an American jury upon the testimony of such a witness? That which a peculiarly constituted grand jury has commenced, a peculiarly constituted petit jury may continue, and a peculiarly constituted court complete. The end may be and doubtless will be the logical consequence of the beginning. One year ago no man would have predicted such a beginning, and who shall say that the tide will turn this side the grave? Who shall prophesy the end?

Many years ago there lived a great statesman, by name Edward Burke, a man whose philosophy, whose eloquence and whose power are indelibly imprinted upon the English history which he helped to make, and this man, after many years of vast and varied experience in the government of a great empire, declared that the object of all government was to get twelve honest men into a jury box. He said in effect that the British government with its fleets and armies, its Kings and Peers, its parliaments and courts, its vast mechanism and its mighty revenues, was only valuable to the people it governed and only true to its purposes in so far as it was able to secure to any Englishman, whose life or liberty might be imperiled, twelve impartial men to pass upon his case. That which was true in the British empire a hundred years ago, is doubly true in the American Republic to-day. Of what avail our conquest of territory, our growth of liberty, our advances in letters, arts, and arms, if we cannot give to every accused citizen, whether dwelling at the centre or upon the confines of the republic, a fair and impartial trial, before a fair and impartial jury of his peers? You may take every other privilege from the citizen and if you leave him that he has much to hope, much to be thankful for. A fair unprejudiced, honest jury is an innocent man's city of refuge, a persecuted man's fortress, a fortress impervious to the assaults of faction, and standing high above the baffled waves of prejudice and passion. Where is that fortress to-day for Utah? Its crumpled bastions lie silent and defenceless under the feet of power. Where is your city of refuge? Its towers and battlements, no longer shining through the mists, are lost in the darkness of prejudice which environs them. The religious and secular leaders of Utah—men who are respected by many honest, earnest people who are not of their faith, men who are believed to be innocent by many influential and independent journals not of their way of thinking, men who are held fast in the embrace of a hundred thousand hearts, men who have filled the land with monuments of industry and progress and human happiness are likely to be sacrificed because a manufactured and unjust public sentiment demands their conviction, and because there is a judge who has the power and disposition to select a jury who will comply with the demand. What if really it is not the intelligent, impartial judgment of the country that demands this, what then? You cannot easily uproot a prejudice which is the growth of thirty years of slander, you cannot change a conviction which is the consequence of a quarter of a century of misrepresentation. You cannot obtain an impartial jury by a selection from those who ignorantly or advisedly are your foes, causelessly perhaps, needlessly perhaps, unwisely and unintentionally perhaps, but still your foes.

I say deliberately that with the history of the past behind me, with the signs of the present before me, with the prevading feeling in the minds of those from whom alone juries will be taken, with the declared opinions of the judges as recorded, I say with sorrow and humiliation, that the Mormon charged with crime who now walks into the courts of his country, goes not to his deliverance but to his doom, that the Mormon who in a civil action seeks his rights in the courts of his country goes not to his redress but to his spoliation.

And there is no prospect of relief, except through a State government. It is true that the lower house of Congress has passed a bill to allow appeals to the Supreme Courts of the United States in criminal cases from the Territories, but it is not probable that this bill will pass the Senate. The declared policy of the Senate and especially of its judiciary committee for some years past has been adverse to such a law.

The present grand jury has found six indictments for murder and seven indictments for lascivious cohabitation. The defendants in these cases include Brigham Young, Joseph A. Young, Daniel H. Wells, George Q. Cannon, Hiram B. Clawson, Hosea Stout, W. H. Kimball, and others less generally known.

This is but a beginning—what will be the end? Look over your public history, and guess, if you can, the possible extent of the perils which environ you. Consider the facts and consider the falsehoods. There is not a misfortune which has befallen the people of Utah, there is not a slander that has been circulated against them, there is not an evil deed committed by a desperate outcast anywhere in this Territory during the last twenty-five years, but that may, by the help of perjury and malice, be framed into an accusation and conviction of hundreds of innocent men. Consider that when the Mormons turned their backs upon the Missouri a quarter of a century ago, and sought in the distant deserts a place where they could preach and practice their strange faith unmolested, they were followed each year by a few desperate outcasts. They were joined by men who were outlawed for crime as the Mormons were outlawed for religion; men who had committed deeds whose detection was imminent, or men who sought to escape the pangs of conscience. Such men followed the tide of Mormon emigration, they attached themselves to Mormon trains, they professed belief in the Mormon faith, and devotion to the Mormon leaders. They made themselves useful in a hundred ways by their knowledge of frontier life and a frontier country. It was impossible to know their histories, it was impossible to fathom their motives. They were often brave or desperate men whom it was not safe to offend, and so they were tolerated, given food, given shelter, given employment, although seldom wholly trusted. In all ages such men have sought the society and protection of religious associations. Every monastery of central and southern Europe in the last century contained a few robbers and murderers who became monks to escape the rack, and sought the sanctuary to shun the jail. Let such men be tempted by a promise of safety or money, or be threatened with punishment, and they will come forward and attempt to swear their crimes upon others whose lives and hearts contrast with theirs as the white snow contrasts with the mire which it sometimes covers with its gentle garments of pity, or as the still and shining stars contrast with the loud and hissing meteors they encounter in their march through space.

How many of such men are there in Utah? Convicted liars, professional thieves, confessed assassins, trembling perjurers, who have hung for years upon the outskirts of the little societies which gather together and build themselves up amid these mountain fastnesses. One such man has served to accuse and cause to be imprisoned several of your most honored citizens. Half a dozen of such, instigated by cowardice and sordidness, would crowd every jail in the Territory.

It will not be forgotten that fifteen years ago a war broke out between the Mormons and the U.S. government. I call it a war because it has been so considered and designated by those in authority. It was a war without a battle. It was rather a rebellion against the United States which did not proceed as far as war. I am not here to defend or apologize for that rebellion. It was doubtless without cause, it was certainly foolish. It has been forgiven, and those who participated in it were pardoned many years ago.

During that war—or rebellion—many mistaken, foolish, but honest and earnest men went to the front filled with burning zeal, and ready to sacrifice and die for a cause which they believed to be unjustly assailed. And with this army of zealots who were filled with the martyr's spirit and the

fanatic's scorn of numbers, there went a few men whose cupidity was excited by the hope of gain, or whose savage hearts swelled with a lust of rapine.

Bloody deeds were committed by these men, deeds which were overlooked at the time, because most men feared their perpetrators and few men cared for the fate of the slain. What shall now prevent the advent of a score of Hickmans, who may come forward and seek exemption from punishment, seek notoriety, seek gain, by swearing that they committed their deeds of blood at the instigation of men whose wealth is coveted, or whose power is envied, or whose conviction of some crime is eagerly desired and passionately pursued by many men of many motives? The Mormon people are judged abroad not by their thousands of deeds of charity and kindness, but by a few deeds of blood unjustly accredited to their leaders. You will never hear how tens of thousands of people have been brought from famine and hopeless toil to lives of peace and plenty, but you will hear of the Mormon rebellion and of Mormon outrages. You will never hear of the thousands of emigrants who have been fed and sheltered and succored, but the Mountain Meadow massacre is in every mouth.

This partial judgment of the Mormons has necessarily some foundation. It would be strange indeed if in the eventful careers of these followers of strange lights, these pioneers of a new theology, these builders of queer temples, these wanderers of the frontier, these architects of a desert state, these men who have faced the storm and the savage, who have wrestled with the sterility of nature and the hatred of man, who have been in a state of almost constant war with somebody ever since their Prophets were murdered in Carthage jail, these men who have been environed with difficulties, and almost submerged with falsehood ever since they first forded the Platte —I say it would be strange indeed, if, when a drag net is thrown over their lives, some isolated facts should not be elicited, which could be so twisted by a perjurer's tongue, and so shaped by an unscrupulous and relentless prosecution, as to secure convictions from packed and prejudiced juries.

I marvel that so little should have been brought forward thus far. I marvel that it is only the assassin Hickman who is now dragged out of the deep. There are others doubtless who await his success to embark in the same business.

On such evidence it may happen that Brigham Young, and Daniel H. Wells, and George Q. Cannon, and many other honored citizens of Utah will be convicted by selected juries, sentenced by Judge McKean, and the sentence confirmed by the Territorial Supreme Court. Unless Congress shall provide for appeals to the U.S. Supreme Court, there will then be an end of the matter, and even if such appeal be allowed, the defendants may be refused bail, and incarcerated during the tedious process of appeal.

Perhaps the end of all this will be that some good men will be judicially murdered and many others incarcerated in felons' cells. You are standing upon the verge of an awful precipice, your foes have guarded every outlet, your only chance is to break their ranks and gain the highway of safety by the path of local sovereignty. You must have a State government. Every other interest should bend to this end, every sacrifice should be made to secure it. Elsewhere there is no strength, elsewhere there is no hope. Every other refuge of good men, every other protection of innocent men is closed in your faces. A State government means juries not selected from a class, but impartially from all citizens, it means Judges chosen by a majority of the people and not appointed from abroad, it means officers of your own selection, it means honest and economical government, it means equal taxation, it means peace, it means security, it means exemption from persecution—in a word, it means power, not the power of a theocracy, nor yet the power of a ringocracy, but the essence of democratic republican government, the power of an intelligent, virtuous, public-spirited, popular majority. It means for Utah a practical establishment of those theories of government which our revolutionary fathers

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THE LATTER-DAY SAINTS' MILLENNIAL STAR.

TUESDAY, APRIL 2, 1872.

EMIGRATION.—In answer to numerous inquiries made of us with regard to the date of the departure for New York of the first vessel for this season carrying a company of emigrating Saints, we may say we have received a letter from President Carrington, dated Salt Lake City, March 4, 1872, in which he writes, "I cannot yet learn how soon the emigration will begin, but so far as I may have influence, it will begin as early as practicable; I hope to be able to learn on or before the 12th inst., and will write as soon as I learn." Our readers may rest assured that at the earliest possible moment after receiving instructions from President Carrington on this point, we will publish the same in the columns of the STAR.

THE TRIAL OF PRESIDENT YOUNG.—The readers of the STAR will doubtless recollect that the trial of President Young, with those of other brethren, was continued to the second Monday in March; but as Judge McKean when last heard from was in Washington, D.C., and at the date of our latest advices no funds had been appropriated by Congress to carry on the trials, it is possible the hearing of the cases may be still further adjourned. In referring to the position of the Third District Court, the *Salt Lake Herald*, of March 7, remarks—

From present indications it is more than doubtful if Judge McKean will be present at the opening session of this court on Monday next, not because of any disinclination on his part to be present, but on account of circumstances beyond his control. In his absence Judge Strickland is authorized to preside, but as the cause of the adjournment of the court—a want of funds—still exists, we must either suppose that the state trials will be still further postponed, or that the court will be run on credit. We have no doubt but that by careful choosing, a grand and trial jury may be found that would gladly volunteer their services without a cent of remuneration, and the members of which would, on their oaths, without compunction, answer as to their qualifications as jurors to the satisfaction of the prosecution.

Since writing the above our attention has been drawn to a despatch dated Salt Lake City, March 11, which states—"The United States Third District Court met to-day, Judge Strickland presiding *vice* Judge McKean absent. The civil cases on the docket were called. Deputy U.S. Attorney High obtained an order from the court that the witnesses now present to appear in the trial of Brigham Young and others set down for to-day, should give recognisance to appear when called for. The defendant's counsel asked when the trial was to come off. The Prosecuting Attorney said, unofficially, that an adjourned term of the court would probably be held for trials on the return of Chief Justice McKean; the time of the trials would be made known through the newspapers, and notice would be given counsel for preparation."

NOTICE.—The Glamorgan Annual Conference will be held in the White Lion Hall, Merthyr, on the last Sunday in April (28th inst.) The meetings will commence at 10 a.m., and 2 and 6 p.m.

THE CONSTITUTIONAL CONVENTION, after a session of twelve days, adjourned *sine die* on March 2nd, having fully accomplished all the objects for which it assembled. It elected Hons. Geo. Q. Cannon, Thomas Fitch and Frank Fuller as delegates, in conjunction with the Hon. W. H. Hooper, to present the Constitution of the State of Deseret, with the accompaning memorial, to the President and Congress of the United States. On March 6th, Messrs. Cannon, Fitch and Fuller left Salt Lake City for Washington, D.C., to fulfil their appointment as delegates from the convention.

CHAPTERS FROM THE HISTORY OF THE CHURCH.

CONTINUED FROM PAGE 204.

The incidents which occured at Nauvoo upon the arrival of President Young and the members of the Twelve Apostles who were with him, we have published in previous numbers. It is not necessary, therefore, that we should repeat them. Sidney Rigdon and those who sympathized with him were very much disappointed and chargined at his not being accepted by the Church as its leader. Whether the Lord desired him to preside or not seemed to be a point about which they gave themselves no concern. It was sufficient in their estimation that he and they thought he ought to have that position. But the Lord chooses his own servants; he assigns, to suit his own good pleasure, their duties to them. He will not be dictated. If men wish to serve him they must do so upon his terms and labor in the direction which he points out. The fact that Sidney Rigdon desired and thought himself qualified to preside, was an evidence that he was unfitted for the position, for the proper conception of the duties, responsibilities and cares of such a great office and calling would have caused him to shrink and to feel that he was unfitted for the place. When he found that he could not succeed in his schemes, he began to show more plainly the spirit of which he was possessed. He began to prophesy evil. He indulged in this to a great extent. Among other things which he predicted was that there would not be another stone raised upon the walls of the Temple. He said this in a meeting at which brother Wm. W. Player was present. Brother Player determined that the prediction should fail, so he took with him brothers Archibald and John Hill, while returning from the meeting, and raised and set a stone upon the building. In so short a time was it proved that Sidney Rigdon was a false prophet! Brother Player had charge of the laying up of the walls of the Temple, which were afterwards raised to their full height and enclosed under a roof. Sidney Rigdon did not learn by this and other numerous predictions which he uttered, and which proved equally false as this, to be more cautious in his prophesying; the last we heard from him, and that was not many months ago, he was prophesying evil concerning the Saints in these valleys. Poor man! it is the only means he has by which he can show his dislike to the work of God. There are few who think him worthy of the least notice, or who have any other feeling than one of pity for him.

President Young and the other Apostles took hold of the new duties which devolved upon them with great zeal and energy. They were surrounded by enemies, and they had great responsibility devolving upon them. Joseph's presence and personal superintendence during his lifetime had

superceded the necessity of strictness and thorough organization in many directions which were now felt to be essential. Bishops N. K. Whitney and George Miller were appointed to act as Trustees-in-Trust of the Church of Jesus Christ of Latter-day Saints, and it was decided also to increase the number of Quorums of Seventies. An epistle was issued to the Saints in Nauvoo and all the world, under date August 15, of which we give the opening paragraphs. The epistle says:

"Forasmuch as the saints have been called to suffer deep affliction and persecution, and also to mourn the loss of our beloved Prophet and also our Patriarch who has suffered a cruel martyrdom for the testimony of Jesus, having voluntary yielded themselves to cruel murderers who had sworn to take their lives, and thus like good shepherds have laid down their lives for the sheep, therefore it becomes necessary for us to address you at this time on several important subjects.

"You are now without a Prophet present with you in the flesh to guide you; but you are not without Apostles, who hold the keys of power to seal on earth that which shall be sealed in heaven, and to preside over all the affairs of the Church in all the world; being still under the direction of the same God, and being dictated by the same Spirit, having the same manifestations of the Holy Ghost to dictate all the affairs of the Church in all the world, to build up the kingdom upon the foundation that the Prophet Joseph has laid, who still holds the keys of this last dispensation, and will hold them to all eternity, as a King and Priest unto the Most High God, ministering in heaven, on earth, or among the spirits of the departed dead, as seemeth good to him who sent him.

"Let no man presume for a moment that his place will be filled by another; for, remember, he stands in his own place, and always will; and the Twelve Apostles of this dispensation stand in their own place and always will, both in time and in eternity, to minister, preside and regulate the affairs of the whole Church.

"How vain are the imaginations of the children of men, to presume for a moment that the slaughter of one, two or a hundred of the leaders of this Church could destroy an organization, so perfect in itself and so harmoniously arranged that it will stand while one member of it is left alive upon the earth. Brethren, be not alarmed, for if the Twelve should be taken away still there are powers and offices in existence which will bear the kingdom of God triumphantly victorious in all the world. This Church may have Prophets many, and Apostles many, but they are all to stand in due time in their proper organization under the direction of those who hold the keys."

The epistle then gave directions concerning the gathering, urging the Saints who had capital to come to Nauvoo, employ the poor and help build up the city. The building of the Temple was given a prominent place, and the necessity of every member proceeding immediately to tithe himself was set forth with great plainness.

This document was most timely. The Church was in the position of a flock that had lost its shepherd. Joseph had been killed; his voice was hushed in death; but the sheep were not left to scatter. The epistle was therefore received and read gladly by the Saints everywhere. They knew the voice to be that of the true shepherd, and though Joseph had gone from their midst, they saw that the authority of the apostleship by which he acted still remained. This was a great comfort and blessing to them.

There was a disposition manifested by some men during these days to lead off companies into the wilderness, promising the people that they would there receive their endowments. A report was circulated that President Young and the other Apostles had a secret understanding with the men who set themselves up as the leaders of these companies to the effect that they were to take away all they could; and although, in public, the Twelve would speak against their going, yet privately they wished them to go. This was a very cunning plan of the evil one by which he hoped to break up the people and destroy the work of God. If President Young or any of the Apostles should speak in public against the for-

mation of these companies, and say to the people that they ought not to leave Nauvoo at that time, then these men who started this lying report would say.

"Did we not tell you that the Twelve would speak against this in public? That was all arranged beforehand when we had our secret understanding. You must not mind what they say in public."

By this means the adversary hoped to bind the people in his chains and lead them to destruction. But these lies could not deceive those who had the Spirit of God. When they heard President Young declare to the people that it was not the will of God that the Saints should go into the wilderness at that time but that it was his will that they should stay in Nauvoo and build the Temple and get their endowments, they believed his words, for the Spirit bore testimony that they were true.

[TO BE CONTINUED.]

THE CONSTITUTIONAL CONVENTION.

[CONTINUED FROM PAGE 215.]

struggled and sacrificed to establish, which their sons struggled and sacrificed to maintain. It does not, as has been sometimes suggested, mean the establishment of theocratic, or autocratic, or personal rule. Those who apprehend such result reason in a narrow circle; those—if such there be—who hope for such result fail to recognize their surroundings. A small and isolated society may be ruled in the primitive patriarchal fashion, but a large, prosperous community, with contending interests, cannot in the nature of things be thus governed. The very conditions on which a State government would be obtained in Utah would be necessarily self-enforcing, and every right and privilege of every citizen would be secure.

The principal obstacle in the way of obtaining a State government is one which it is in the power of the people of Utah to remove, it is the obstacle of an anomalous, unpopular social institution. It is indeed true that the local opponents of a State government offer other reasons and endeavor to make other difficulties against the admission of Utah into the Union, but these will not in my opinion be seriously regarded by Congress. The advocates of continued Territorial government are anxious that Utah should have a much larger population than at present, before being admitted as a State, and they urge that she should not be admitted even with the requisite number, unless a majority of such population shall be hostile to Mormon rule.

The argument of insufficient population will have but little weight. The census of 1870 gave Utah 86,000 people, and I am informed that in several instances entire settlements containing thousands of souls were omitted by the census marshals. Since then the completed overland road and the development of mineral resources have added not less than 30,000 to the population of Utah. Our population to-day is not less than 130,000, or ten thousand more than the present basis of representation, and but 27,000 less than the future basis of representation which will not take effect until March 1873. It is three times the population of Nevada, fifty per cent greater than that of Oregon, about the same as that of Nebraska, Florida and Delaware, and larger than that possessed by either Wisconsin, Michigan, Arkansas, Iowa, Minnesota, Kansas, Oregon, Nevada or Nebraska at the date of their respective admissions, and neither the Territory of Utah nor any county or municipality in Utah is in debt a single dollar. Taxes are lighter here than in any State or Territory of the Union. Our roads are public and the toll gatherer is almost unknown. Seventy miles of railroad have been constructed within the last two years without the grant of an acre of land or the help of a dollar of public money or credit, a hundred and fifty more miles will be constructed in the same

way during the next twelve months, manufactures of woolen, cotton and iron are extensively established, agriculture thrives, the value of taxable property in the Territory — exclusive of mines—will exceed fifty millions of dollars, our mineral products nearly equal those of California; in short, there is not a new community of equal numbers on the continent so thrifty, so self-sustaining, so filled with every element of wealth and growth.

The other objection to a State government, an objection urged by a handful of people and an irresponsible guerilla press, that in case Utah is admitted the Mormons will control her politics and elect her officers and representatives, is an objection to which the Congress of the United States will in my judgment accord no weight whatever. That body will, I venture to predict, see no good reason why the Mormons, who constitute nine-tenths of the community, should not control public affairs here, and once satisfied that the social problem is in the way of a peaceful and just solution, there will, I think, be a disposition to give Utah the privilege of self-government.

The question of State government or no State government for the people of Utah, is simply a question of concession on the part of the people of Utah. I say a question of concession —I doubt indeed if it be longer that. The universal voice of a democratic republican nation of forty millions of people seems to be consolidated into a demand with respect to Utah, a demand which may perhaps be the offspring of prejudiced opinion—but if so, it is an opinion which will not be enlightened and which cannot be disregarded nor overruled. The demand is that the future marriage laws and marriage relations of Utah be placed in consonance with the rest of the republic—the demand is that polygamous or plural marriages shall cease. Accede to this demand and you may have a State government, with condonation of the past and secure exemption from persecution for the future. Deny it, and you will have neither a State government nor cessation of persecutions. The war is over, secession is dead, slavery is dead, and in the absence of subjects of greater importance, Utah and her institutions will be the shuttlecock of American politics, to be bruised and beaten by the battledores of party for the next decade, unless she now grasp her opportunity and gain peace by gaining power.

In accordance with a public promise made when nominated to this convention, I stand here to-day to advocate the surrender of polygamy. It may be that my utterances in this behalf will take from me the friendship and support of many men and women; if so, I must even pay the penalty. It is easier to swim with the current than to seek to stem it, and perhaps it is wiser, but whether or not, it is a policy I have seldom been able to practice. I have not permitted myself to be disturbed by the titles of "Jack Mormon," "Apostate Gentile," "Saint Fitch," "Elder Fitch, and "Apostle Fitch," which have been so freely bestowed upon me during the last ten months by men whose small souls were incapable of comprehending that it was possible to pursue a great purpose by a liberal and comprehensive policy. That I am the friend of the Mormon people, wishing their welfare and happiness, and willing to do all in my power to advance that end, I have often publicly avowed by word and deed, and if my course in this respect shall have inclined this assemblage to-day to give more weight to my utterances than would have been otherwise accorded to them, then I am more than compensated for being traduced and steadily misunderstood by many who in times past honored me with their confidence and support. In another forum than this it was my fortune two years ago to stand up almost alone to ask the representatives of a great nation to be just towards an honest, earnest, calumniated people, and perhaps I may stand alone to-day in asking the representatives of that same people to be just to themselves.

I am not here to attack polygamy from a theological, a moral, or a physical, but from a political standpoint. Certainly I do not propose to question the pure motives or the honesty of those who believe in and who practise it. I am inclined to agree with Montesquieu and Buckle, that it is an

affair of latitude, and climate, and race, and on these grounds alone its existence among a Saxon people living in a north temperate zone is a climatic anomaly. It did not grow out of any structural, or race, or social, or climatic necessities, and if it be, as asserted, the offspring of revelation here, I can only say that it needed a revelation to start it. That it has Scriptural patriarchal origin and example is probably true, but that was in another age than ours, and in a different land. If Abraham had lived on the line of the overland road in the afternoon of the nineteenth century, if Isaac had been surrounded by forty million monogamous Yankees, if Jacob had associated with miners and been jostled by speculators, there would, I apprehend, have been a different order of social life in Palestine. The Mormon doctrine may be the true theology, and the writings of Joseph Smith the most direct of revelations. The practice of polygamy may be a safeguard against the vice of unlicensed indulgence, and the social life of Utah the most sanitary of social reforms. All the advantages claimed for this system may be actual, but nevertheless the fact exists that polygamy is an anomaly in this republic, existing hitherto by the sufferance of a people who now declare that it shall exist no longer.

Do you doubt this decision on their part? The evidences are all about you. Here is a people who expended thousands of millions of treasure and myriads of life to establish the freedom of the black race from oppression, and who yet regard with indifference, if not with complacency, the assault which has been made upon the rights and liberties of American citizens in Utah, because the objects of those assaults uphold a hated doctrine. Here is a people ordinarily jealous of the aggressions of rulers and officials, who yet endorse acts of despotism, and applaud assaults upon law and constitution because such assaults are made for the destruction of polygamy.

What if judges should be changed, or policies be altered? It would bring but temporary relief, for behind all, impelling all, contriving all, demanding all, enforcing all, there dwells the unconquerable all-pervading idea of the American people that polygamy must be extinguished—on this one thing all parties, all creeds, and all philosophies are combined. The press calls for it, the pulpit thunders for it, the politicians argue for it, the people insist upon it. You may delay the issue but you cannot evade it. Your antagonist is hydra-headed and hundred armed. Whether by bigoted judges, by packed juries, by partizan officers, by puritan missionaries, by iron limbed laws, by armies from abroad or by foes and defections at home, the assault is continuous and unrelenting. Your enemies are ubiquitous. Your friends—ah! it is your friends who advise you constantly to baffle your enemies and resign this one feature of your faith. The history of all similar movements warns you, the violated laws of latitude confront you, your children unconsciously plot against you, for while polygamy is with you the result of religious connection, with them it is but a result of religious education, and an inoculated faith, like an inoculated disease, is never very violent nor very enduring.

Can this people hope to retain polygamy against such influences and such antagonism? Some tell me that they trust in God to uphold them in a struggle to keep polygamy. Others would doubtless say that they trust in God to uphold them in the struggle to banish polygamy, and others yet that there can in the nature of things be no assurance that the Almighty will interest himself in the matter, or espouse either side. The early Christians trusted in God when the Roman Emperors gave them to the wild beasts. The Huguenots trusted in God when the assassins of St. Bartholomew's eve made the gutters of Paris reek with their blood, so trusted the Waldenses when their peaceful valleys were given to rapine, so trusted the victims whose despairing faces were lit by the glare of Spanish auto da fes, so trusted the martyrs whose faggot fires gleam down the aisles of history, so trusted the Puritans when driven out upon the stormy Atlantic, so trusted the Presbyterians when the Puritans persecuted them, so trusted the Quakers when the Presbyterians expelled them, so trusted the Acadians when driven from

their homes. So trusted the myriads who in all ages have been sacrificed to the moloch of religious intolerance. Who shall say when or in what cases or in what way the Ruler of the Universe will interfere? "Render unto Cæsar the things that are Cæsar's, and to God the things that are God's." A belief in polygamy is a matter between the citizen and his God, the practice of polygamy is a matter between the citizen and his country. If you think that the laws of God call upon you to believe in it, then obey them unmolested, but the laws of your country call upon you not to practise it, so obey them and *be* unmolested. If for his own wise purpose the Almighty did not see fit to interfere by special and miraculous providences to protect those who refused to recant their professions, is it probable that he will so interfere to sustain those who refuse to surrender the practice of an ordinance and that not a saving, although perhaps a sacred ordinance? I say not a saving ordinance—I do not claim to know, I do not know what the Mormon doctrine may be with respect to the practice of polygamy. I observe, however, that not one tenth of your adult males actually practise it, and I naturally conclude that you do not consider its practice essential to your salvation, that it is something to be practised or omitted as opportunity or ability may warrant. If this be so, then may not that lack of ability or opportunity arise from the antagonism of others, from the circumstances of the country, from overpowering laws—as well as from the circumstances of the individual? If one Mormon is permitted by his creed to say, "I believe in polygamy as a doctrine, but I do not practise it because my condition makes it inconvenient or impossible," why may not all say, "We believe in it as a doctrine, but we agree not to practise it because the general conditions make it inconvenient or impossible?" Why may not the earnest conscientious Mormon say, "I believe in polygamy as a doctrine, but in order to relieve my friends and associates from persecutions, in order to prevent the establishment of intolerable oppression, in order to preserve the thrift, the industry, the wealth, the progress, the temperate life, the virtues of Utah from spoliation and devastation and ruin, in order to save a hundred noble pioneer citizens from outlawry or the gibbet or incarceration; in order to achieve self-government and peace and liberty, I consent to surrender its practice for the future. And so consenting, I am content to embody my consent in the form of an organic law. So consenting, I mean in good faith to do as I agree to do; and so agreeing, I make my agreement public and of record.

To say on the other hand that you will make no compromise, that you will die rather than surrender the practice of this one feature of your faith, is the resolve of neither philosophers nor philanthrophists. Such a resolve means another Nauvoo, it means that you consent to count more of your religious leaders among your list of martyrs, it means death to some, exile to others, ruin to many. If such be the well considered, deliberate determination of the Mormon people, there is no weapon in the armory of logic that will prevail against it, for you cannot reason with him who is bent on suicide. I hope that no such conclusion has been or will be reached. I hope that the assembling of this convention indicates a different and a wiser resolve. I speak to this people as a friend, I speak to them without thought of personal gain or advantage to myself to result from pursuing the course I suggest. Before God and before this Convention I do most solemnly assert, that did I intend to leave Utah forever on the morrow, I would give the same advice. Before God and before this Convention I do most solemnly declare, that did I know my little life would go out from earth with to-day's sun, I would give the same advice.

To this convention I say, be wise in time. If you do not by this concession successfully organize a State government for yourselves now, the day is not far distant when your foes will organize one over your heads, and organize it upon such terms that will ostracize your most honored citizens from public places, if it do not disfranchise the body of your voters. The political history of some of the reconstructed

States lies legible to your perusal and for your warning. In politics as in finance the tendency of the age is to centralization. The triumphant career of a great political party demonstrates to you that there is no government so strong as a government of opinion, that there is no law so powerful as the will of a people. It is a turbulent, a resistless torrent, constitutional barriers are swept down before it, laws are changed to accommodate it, courts are overwhelmed or carried away upon its crest, and institutions which lift up their voices against it are hushed by its mighty thunders.

Do not trifle with your opportunity. Do not wait the tardy action of Congress. Do not entail upon yourselves years of oppression. Do not play into the hands of your foes. Do not close the mouths and tie the hands of your friends. Believe rather that this is the hour for triumph, that this is "the tide in your affairs which taken at the flood leads on to fortune." Believe rather that out of the wise compromise, the wise concession, which may have a beginning here, a happy future shall grow, that from this house the lovely State of Deseret shall go forth, with her errors forgotten, with her virtues shining like rubies upon her breast, to clasp hands with her sister States and march with them along the highway of empire which stretches from sun to sun.

[TO BE CONTINUED.]

UTAH NEWS.

The following are from the *Deseret News* to March 6—

A Joint Stock Company was constructing a Street Railroad in Salt Lake City. Two of the cars had arrived and the iron for the track was on the way.

A correspondent writing from Mill Creek Cañon, says, the mild weather of the last few days has caused a land slide there. There was no accident or loss of life, but it has suspended logging and milling operations.

The *Herald* observes—"On Monday week, March 18, the legal voters of the Territory will have the opportunity of expressing themselves at the polls on the work of the constitutional convention. Besides voting for or against the constitution, a legislature for the proposed State has to be elected, when for the first time in American history, the principle of minority representation, in a State capacity, will be practically put in operation, as the members to the lower house of the legislature are to be so elected. We say for the first time, because the like provisions in the Illinois constitution has not yet gone into operation. If the minority desire to secure direct representation in the legislature, should Utah be admitted, we think there is no question but they can do so; and they should be wise in the selection of their candidates, not choosing men merely because of being rabid anti-Mormons, but because of especial fitness for office. By this means they may concentrate their votes and secure the election of their fair proportion of representatives. The majority should also choose the best men they can find; for the first legislature of the new State will have much important work to do, demanding the combined wisdom of the best minds and most honest men to be found in Deseret. We view the coming election as in every sense an important one, not because there is any doubt that the constitution will be ratified, but because it will be a marked feature in the history of this region, and because, whether the State be refused or granted admission, the wisdom of the people in every matter relative to the application for State sovereignty should be manifested in a most unmistakable manner."